

Defendant Jarvis' Reply Motion to Dismiss

Exhibit D

AUSA Letter of November 1, 2007



United States Attorney
District of New Mexico

P.O. Box 607 505/346-7274
Albuquerque, New Mexico 87103 Fax 505/346-7296

November 1, 2007

Jody Neal-Post
Attorney at Law
317 Amherst SE
Albuquerque, NM 87106

Re: *United States v. Dana Jarvis*, CR-05-1849 JH

Dear Ms. Neal-Post,

I am writing in response to your letter dated October 29, 2007, in which you request, based on an assertion of privilege, that "all communications cease" between the United States and attorney Robert Gorence regarding Dana Jarvis and that the United States "make no contact" with certain other attorneys who you claim have previously represented Jarvis.

I appreciate you giving me notice of your position on this point. I will not, however, agree not to contact or communication with the attorneys mentioned in your letter. My reasons include, but are not necessarily limited to, the following: 1) issues related to the Robert Gorence / Dana Jarvis interaction are currently being litigated in this case; 2) those issues involve or appear likely to involve a dispute (or at least a disagreement) between Mr. Gorence and Mr. Jarvis; 3) attorney-client privilege is an evidentiary privilege which does not preclude the United States from communicating with an attorney regarding a client; and 4) under applicable authorities, including but not limited to the Rules of Professional Conduct, it is the attorney's responsibility not to reveal privileged or otherwise confidential information relating to or obtained in relation to a client or prospective client. See, e.g., Rule 16-106 NMRA (2007).

By copy of this letter, along with a copy of your letter to me, I am advising the attorneys mentioned in your letter of Mr. Jarvis's position. I am also hereby advising them, and you, that: 1) it is not my intent to obtain any attorney-client or work-product privileged materials in any contacts with them, or you, related to this matter or to otherwise intrude upon the relationship between attorneys involved in this case and their clients or prospective clients; and 2) my intent notwithstanding, I rely on the attorneys who have privileged or other confidential information to assert the privilege or otherwise protect any confidential information which should not be disclosed to me.

Very truly yours,

LARRY GOMEZ
United States Attorney


JAMES R.W. BRAUN
Assistant U.S. Attorney

cc (w/ encl.): Robert Gorence
Judith Rosenstein
Cliff McIntyre
Hope Eckert
Sharon Hawk
Paul Kennedy

cc (w/o encl.): Joe M. Romero, Jr.